IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 958 of 2007
Date of Decision : 22.01.2007

Simarjit Singh ... Petitioner

Versus

State of Punjab and others. .. Respondents

CORAM : HON'BLE MR. JUSTICE J.S. KHEHAR,
HON'BLE MR. JUSTICE S.D. ANAND.

Present : Mr. A.S. Jattana, Advocate,
for the petitioner.

S.D. Anand, J.

1. Concededly, the dismissal from service of the petitioner, a Constable posted at Faridkot at that relevant point of time, came about at the hands of the competent authority on account of his unannounced absence for a period of 81 days, 15 hours and 10 minutes, a charge for which he was indicted in a regular departmental enquiry. The appeal was dismissed by the Deputy Inspector General of Police, Ferozepur Range, Ferozepur vide an order dated 14.10.1993. The fate at the hands of the revisional authority was also no different.

2. The solitary contention of the learned counsel for the petitioner is that the petitioner was disabled from being present on duty on account of a stomach problem which, in turn, disabled him from walking. When called upon by us to indicate whether the petitioner had ever been hospitalized, learned counsel affirmatively nodded in negative. However, when confronted with the fact that it was own plea of the petitioner before the competent authority (as noticed by the Senior Superintendent of Police, Faridkot in Annexure P/1) that he had been hospitalized in the Hospital of

Dr. Ram Parshad Suchdeva, Faridkot, he had to concede the falsity of the verbal plea in that context. The relevant plea noticed by the Senior Superintendent of Police, Faridkot is reproduced as under:-

> "The careless has submitted in para no.1 in his reply that on 3.10.1991 he suddenly fell ill and due to acute difficulty he was admitted in the Hospital of Dr. Ram Parshad Sachdeva, Faridkot, where was treated continuously. Due to acute illness and weakness he was unable to walk and move and owing to this he neither could not get any report entered in police lines regarding his illness, nor did he send any telegram etc. During those days there was no doctor in police lines Hospital Faridkot."

3. It must be noticed, for reasons of appropriate relevance, that the disciplinary authority recorded adequate reasons to discard the plea raised on behalf of the petitioner qua his alleged ailment.

4. Any unannounced absence of a public servant would safely be taken as a grave act of misconduct or an act unbecoming of a public servant. It would be particularly so if the dereliction is committed by member of a force charged with duty of enforcement and maintenance of law and order. Our view is fortified by a view taken by the Apex Court in 1999 SCC (L&S), 1234 – State of Punjab and others versus Sukhwinder Singh. In that case as well, the delinquent official was a Constable who had absented himself from duty for a period of 65 days and 14 hours. The plea raised by the petitioner in that case for dilution on point of punishment was negatived by the Apex Court by the following observations which are extracted hereunder for facility of reference:-

> "5. The High Court was right in noting that the respondent was a member of a disciplined force and that absence from duty was unbecoming of a member of such force. It was in that light

that the High Court should have looked at the repeated acts of the respondent's absence from duty. The fact that the respondent is a member of the Scheduled Castes is neither here nor there for the purposes of considering whether or not he is guilty of misconduct and breach of discipline, nor the fact that he had gone to give his pay to his mother and was detained on account of her illness. It is necessary that members of the police forces should attend the duties which they have been allocated and not absent themselves. This is a paramount public interest that must overweigh private considerations. The High Court was, therefore, in patent error in looking benignly at the numerous acts of absence of the respondent.

6. That the order of dismissal did not use the "mantra" of "gravest act of misconduct" is not determinative. The substance of that conclusion is to be found in that order. When a policeman is repeatedly absent from duty, it cannot but be reasonably concluded that there is incorrigibility in his continued misconduct."

5. In the light of the afore-mentioned discussion, we are of the considered view that the petitioner deserves to be non-suited.

Dismissed.

(S.D. Anand)
Judge

January 22, 2007 (J.S. Khehar)
vkd Judge